

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

CHRISTINA L. CUPP, AS
ADMINISTRATOR OF THE ESTATE OF
LITTLE JOHN CUPP

Plaintiff,

vs.

UNITED HEALTHCARE SERVICES, INC.,
ET AL.

Defendants.

Case No: 2:24-cv-01519

Judge Edmund Sargus
Magistrate Judge Chelsey M. Vascura

**PLAINTIFF’S COMBINED RESPONSE TO MOTIONS TO DISMISS FILED BY
DEFENDANTS UNITED HEALTHCARE SERVICES, INC. AND EVICORE
HEALTHCARE MSI, LLC, FILED ON APRIL 29, 2024**

On April 29, 2024, Defendants United Healthcare Services, Inc. and EviCore Healthcare MSI, LLC filed separate Motions to Dismiss Plaintiff’s claims against them on the basis that they are preempted by the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 10001, et seq. (*see* Doc. 12 and Doc. 14.) Plaintiff requested that this Court grant her an additional 30 days to respond, to allow her to serve a subpoena on Jones Lange LaSalle (“JLL”) obtain additional documents relating to the health insurance benefits at issue in this case (*see* Doc. 19). This Court granted Plaintiff’s Motion, and permitted Plaintiff until June 20, 2024 to file responses to Defendants’ Motions to Dismiss (*see* Doc. 23). On May 21, 2024, Plaintiff successfully served the subpoena on JLL (*see* Doc. 24). In compliance with the subpoena, JLL recently produced the requested documents to Plaintiff’s counsel via email, which have since been forwarded to counsel for Defendants, in accordance with Fed. R. Civ. P. 45.

Upon review, Plaintiff does not oppose the Motions to Dismiss filed by Defendants United Healthcare Services, Inc. and EviCore Healthcare MSI, LLC. Thus, all claims alleged against Defendants United Healthcare Services, Inc. and EviCore Healthcare MSI, LLC should be dismissed without prejudice pursuant to Fed. R. Civ. P. 12(b)(6), and all other claims should be remanded back to the Franklin County Court of Common Pleas.

Respectfully submitted,

/s/ John A. Markus

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CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of June, 2024, a copy of the foregoing document was filed via the Court's ECF, which will provide notice of the filing to all counsel of record.

/s/ John A. Markus
John A. Markus